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FILED

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RICHARD W. WILKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ME
IF

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

PVT

11 HUANG HUANG

12 Plaintiff,

13 vs.

14 MICHAEL CHERTOFF, Secretary of the
15 Department of Homeland Security;
16 ROBERT S. MUELLER,
17 Director of Federal Bureau of Investigation

18 Defendants.

Case No.:

08 0687

**PETITION FOR HEARING ON
NATURALIZATION APPLICATION
UNDER 8 U.S.C. § 1447(B)**

19 COMES NOW HUANG HUANG, Plaintiff in the above-styled and numbered cause, and
20 for cause of action would show to the Court the following:

21 1. This action is brought for a hearing to decide Plaintiff's naturalization application due to
22 Defendants' failure to adjudicate the application within 120 days after the first examination in
23 violation of the Immigration and Nationality Act ("INA") § 336(b) and 8 U.S.C. § 1447(b).

PARTIES

24 2. Plaintiff HUANG HUANG, a native and citizen of the People's Republic of China, is a
25 lawful permanent resident of the United States. On April 14, 2005, Plaintiff's Form N-400,
26 Application for Naturalization was received by the U.S. Immigration and Naturalization Service,
27 or U.S.C.I.S. (**Exhibit 1**). Plaintiff was interviewed for her naturalization application on
28 September 22, 2005 (**Exhibit 2**). Defendants have failed to make a decision on the application
within 120 days after the examination.

3. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security

1 (DHS), and this action is brought against him in his official capacity. He is generally charged with
2 enforcement of the Immigration and Nationality Act, and is further authorized to delegate such
3 powers and authority to subordinate employees of the DHS. 8 U.S.C. §1103(a); 8 C.F.R. § 2.1.

4 4. Defendant Robert S. Mueller, III, is Director of the Federal Bureau of Investigations (FBI),
5 the law enforcement agency that conducts security clearances for other U.S. government agencies,
6 such as the Department of State. As will be shown, Defendant has failed to complete the security
7 clearances on Plaintiff's cases.

8 JURISDICTION

9 5. Jurisdiction in this case is proper under the INA § 336(b) and 8 U.S.C. §1447(b). Relief is
10 requested pursuant to said statutes.

11 VENUE

12 6. Venue is proper in this court, pursuant to 8 U.S.C. §1447(b), in that Plaintiff may request a
13 hearing on the matter in the District where Plaintiff resides.

14 CAUSE OF ACTION

15 7. Plaintiff is a lawful permanent resident of the United States. On April 14, 2005,
16 Plaintiff's Form N-400, Application for Naturalization was received by the U.S. Immigration and
17 Naturalization Service, or U.S.C.I.S. (**Exhibit 1**). Plaintiff was interviewed for her naturalization
18 application on September 22, 2005 (**Exhibit 2**). Defendants have failed to make a decision on the
19 application within 120 days after the examination. Plaintiff's Application for Naturalization has
20 now remained un-adjudicated for more than two years and four months from the date of the
21 interview.

22 8. Defendants have sufficient information to determine Plaintiff's eligibility pursuant to
23 applicable requirements.

24 9. Defendants, in violation of 8 U.S.C. § 1447 (b), have failed to make a determination on
25 Plaintiff's naturalization application within the 120-day period after the date of examination.

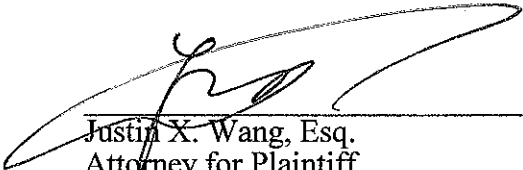
26 PRAYER

27 10. WHEREFORE, in view of the arguments and authority noted herein, Plaintiff
28 respectfully prays that the Defendants be cited to appear herein and that, upon due consideration,

1 the Court enter an order adjudicating the naturalization application. In the alternative, the Court
2 may remand requiring Defendants to immediately adjudicate Plaintiff's naturalization application.
3 In addition, Plaintiff requests an award of reasonable attorney's fees under the Equal Access to
4 Justice Act and such other relief at law and in equity as justice may require.

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6 Dated: January 28, 2008

Respectfully submitted,

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10 Justin X. Wang, Esq.
11 Attorney for Plaintiff
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LIST OF ATTACHMENTS

<i>Exhibit</i>	<i>Description</i>
1	N-400 Receipt Notice
2	N-652, Naturalization Interview Results

Exhibit 1

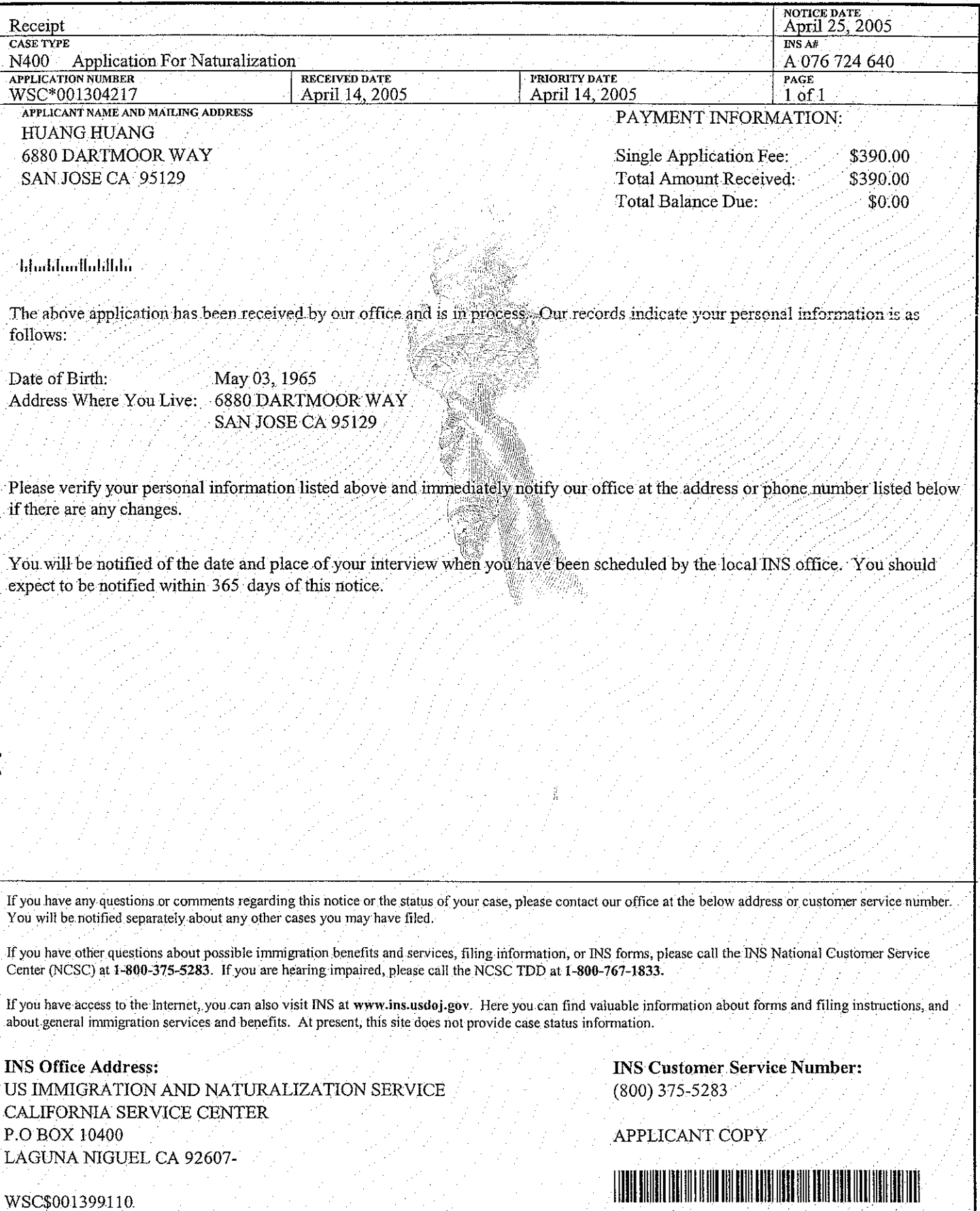


Exhibit 2

A#: A76724640

On September 22, 2005, you were interviewed by USCIS Officer JOHN R. GONZALEZ

- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the test of U.S. history and government and the English language requirement was waived.
- ☐ USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- ☐ You will be given another opportunity to be tested on your ability to ☐ speak / ☐ read / ☐ write English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- ☐ Please follow the instructions on the Form N-14.
- ☐ USCIS will send you a written decision about your application.
- ☐ You did not pass the second and final test of your ☐ English ability / ☐ knowledge of U.S. history and government. You will not be rescheduled for another interview for this N-400. USCIS will send you a written decision about your application.

A) ☐ **Congratulations! Your application has been recommended for approval.** At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) ☒ *NAME CHECK PENDING*
A decision cannot yet be made about your application.

It is very important that you:

- ☒ Notify USCIS if you change your address.
- ☒ Come to any scheduled interview.
- ☒ Submit all requested documents.
- ☒ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#), and a copy of this paper.
- ☒ Go to any Oath Ceremony that you are scheduled to attend.
- ☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied or before the U.S. district court if USCIS has not made a determination on your application within 120 days of the date of your examination.